

(g) *Plant pests; authorized treatments.* (1) Apples from Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, Switzerland, and West Germany; and pears from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of a PPQ inspector: the pear leaf blister moth (*Leucoptera malifoliella* (O.G. Costa) (Lyonetiidae)), the plum fruit moth (*Cydia funebrana* (Treitschke) (Tortricidae)), the summer fruit tortrix moth (*Adoxophyes orana* (Fischer von Rosslerstamm) (Tortricidae)), a leaf roller (*Argyrotaenia pulchellana* (Haworth) (Tortricidae)), and other insect pests that do not exist in the United States or that are not widespread in the United States.

(2) Authorized treatments are listed in part 305 of this chapter.

(h) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may allow apples or pears imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection, under the following conditions:

(1) The Administrator has determined that inspection can be accomplished at the port of arrival without increasing the risk of introducing insect pests into the United States;

(2) Each pallet of apples or pears must be completely enclosed in plastic, to prevent the escape of insects, before it is offloaded at the port of arrival;

(3) The entire shipment of apples or pears must be offloaded and moved to an enclosed warehouse, where adequate inspection facilities are available, under the supervision of PPQ inspectors.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of inspection will be the same as prescribed in paragraph (d)

of this section for preclearance inspections.

[52 FR 46058, Dec. 4, 1987, as amended at 60 FR 14208, Mar. 16, 1995; 62 FR 50236, Sept. 25, 1997; 67 FR 8466, Feb. 25, 2002; 70 FR 33326, June 7, 2005]

**§ 319.56–2s Administrative instructions governing the entry of apricots, nectarines, peaches, plumcot, and plums from Chile.**

(a) *Importations allowed.* Pursuant to § 319.56(c), the Administrator has determined that apricots, nectarines, peaches, plumcot, and plums may be imported into the United States from Chile in accordance with this section and other applicable provisions of this subpart, as an alternative to importation in accordance with § 319.56–2m.

(b) *Trust fund agreement.* Except as provided in § 319.56–2m or in paragraph (g) of this section, apricots, nectarines, peaches, plumcot, and plums may be imported only if the plant protection service of Chile (Servicio Agrícola Y Ganadero, referred to in this section as SAG), has entered into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) for that shipping season. This agreement requires SAG to pay in advance all estimated costs incurred by APHIS in providing the preclearance prescribed in paragraph (d) of this section. Payment of costs will be made on a monthly or other schedule designated by APHIS, but payment must be made for each preclearance service before APHIS provides the service. These costs will include administrative expenses incurred in conducting the preclearance services; and all salaries (including overtime and the federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. The agreement requires SAG to deposit certified or cashier's checks with APHIS for the amount of these costs, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the deposit is not sufficient to meet all costs incurred by APHIS, SAG must

deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during the shipping season exceeds the total costs incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season upon request, or otherwise will be applied to preclearance services for the next shipping season.

(c) *Responsibilities of Servicio Agrícola Y Ganadero.* SAG will ensure that:

(1) Apricots, nectarines, peaches, plumcot, or plums are presented to APHIS inspectors for preclearance in their shipping containers at the shipping site for preclearance as prescribed in paragraph (d) of this section.

(2) Apricots, nectarines, peaches, plumcot, and plums presented for inspection are identified in shipping documents accompanying each load of fruit that identify the packing shed where they were processed and the orchards where they were produced; and this identity is maintained until the apricots, nectarines, peaches, or plums are released for entry into the United States.

(3) Facilities for the inspections prescribed in paragraph (d) of this section are provided in Chile at an inspection site acceptable to APHIS.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in Chile under the direction of APHIS inspectors. An inspection unit will consist of a lot or shipment from which a statistical sample is drawn and examined. An inspection unit may represent multiple grower lots from different packing sheds. Apricots, nectarines, peaches, plumcot, or plums in any inspection unit may be shipped to the United States only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, the contents of the cartons which were selected based on a sampling

scheme established for each inspection unit. An APHIS inspector will designate which cartons to inspect in each inspection unit to ensure that units infested at a level of 3 percent or more will be identified with a confidence level of 95 percent.

(i) If the inspectors find evidence of any plant pest for which a treatment authorized in part 305 of this chapter is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest in Chile. However, if the entire inspection unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in part 305 of this chapter is available, the entire inspection unit will not be eligible for shipment to the United States.

(ii) Apricots, nectarines, peaches, plumcot, and plums precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States except as necessary to ensure that the fruit has been precleared and for occasional monitoring purposes.

(e) *Termination of preclearance programs.* Shipments of apricots, nectarines, peaches, plumcot, and plums will be individually evaluated regarding the rates of infestation of inspection units of these articles presented for preclearance. The inspection program for an article will be terminated when inspections determine that the rate of infestation of inspection units of the article by pests listed in paragraph (f) of this section exceeds 20 percent calculated on any consecutive 14 days of actual inspections (not counting days on which inspections are not conducted). Termination of the inspection program for an article will require mandatory treatment in Chile, prior to shipment to the United States, of shipments of the article for the remainder of that shipping season. If a preclearance inspection program is terminated with Chile, precleared fruit in transit to the United States at the time of termination will be spot-checked by APHIS inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (f) of this section.

(f) *Plant pests; authorized treatments.* (1) Apricots, nectarines, peaches, plumcot, or plums from Chile may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of an APHIS inspector: *Proeulia* spp., *Leptoglossus chilensis*, *Megalometis chilensis*, *Naupactus xanthographus*, *Listroderes subcinctus*, and *Conoderus rufangulus*, and other insect pests that the Administrator has determined do not exist, or are not widespread, in the United States.

(2) Authorized treatments are listed in part 305 of this chapter.

(g) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may, in emergency or extraordinary situations, allow apricots, nectarines, peaches, plumcot, or plums imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection of fumigation in Chile, under the following conditions:

(1) The Administrator is satisfied that a unique situation exists which justifies a limited exception to mandatory preclearance;

(2) The Administrator has determined that inspection and/or treatment can be accomplished at the intended port of arrival without increasing the risk of introducing insect pests into the United States;

(3) The entire shipment of apricots, nectarines, peaches, plumcot, or plums must be offloaded and moved, under the supervision of APHIS inspectors, to an enclosed warehouse, where inspection and treatment facilities are available.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of sampling and inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[55 FR 42352, Oct. 19, 1990, as amended at 58 FR 69179, Dec. 30, 1993; 67 FR 8466, Feb. 25, 2002; 70 FR 33326, June 7, 2005]

**§ 319.56–2t Administrative instructions: Conditions governing the entry of certain fruits and vegetables.**

(a) The following commodities may be imported into all parts of the United States, unless otherwise indicated, from the places specified, in accordance with § 319.56–6 and all other applicable requirements of this subpart:

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (see paragraph (b) of this section)
Argentina .....	Allium .....	<i>Allium</i> spp .....	Whole plant.	
	Apple .....	<i>Malus domestica</i> .....	Fruit .....	(b)(1)(ii)
	Apricot .....	<i>Prunus americana</i> .....	Fruit .....	(b)(1)(ii)
	Artichoke, globe .....	<i>Cynara scolymus</i> .....	Immature flower head.	
	Basil .....	<i>Ocimum</i> spp .....	Above ground parts.	
	Cherry .....	<i>Prunus avium</i> , <i>P. cerasus</i> .	Fruit .....	(b)(1)(ii)
	Currant .....	<i>Ribes</i> spp .....	Fruit.	
	Endive .....	<i>Cichorium endivia</i> .....	Leaf and stem.	
	Gooseberry .....	<i>Ribes</i> spp .....	Fruit.	
	Kiwi .....	<i>Actinidia deliciosa</i> .....	Fruit .....	(b)(1)(ii)
	Marjoram .....	<i>Origanum</i> spp .....	Above ground parts.	
	Nectarine .....	<i>Prunus persica</i> var. <i>nucipersica</i> .	Fruit .....	(b)(1)(ii)
	Oregano .....	<i>Origanum</i> spp .....	Above ground parts.	
	Peach .....	<i>Prunus persica</i> var. <i>persica</i> .	Fruit .....	(b)(1)(ii)
	Pear .....	<i>Pyrus communis</i> .....	Fruit .....	(b)(1)(ii)
	Plum .....	<i>Prunus domestica</i> subsp. <i>domestica</i> .	Fruit .....	(b)(1)(ii)
	Pomegranate .....	<i>Punica granatum</i> .....	Fruit .....	(b)(1)(ii)
Australia .....	Quince .....	<i>Cydonia oblonga</i> .....	Fruit .....	(b)(1)(ii)
	Currant .....	<i>Ribes</i> spp .....	Fruit.	
	Gooseberry .....	<i>Ribes</i> spp .....	Fruit.	